

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**DAVID B. TURNER BUILDERS LLC, and  
NEW ENGLAND CONSTRUCTION LLC**

**PLAINTIFFS**

**VS.**

**CIVIL ACTION NO. 3-21-cv000309-HTW-LGI**

**WEYERHAESER COMPANY, WEST FRASSER,  
CANFOR COMPANY, GEORGIA-PACIFIC,  
SIERRA PACIFIC INDUSTRIAL,  
INTERFOR COMPANY, HAMPTON AFFILIATES, IDAHO FOREST  
GROUP, POTLATCH DELTIC, RSG FOREST PRODUCTS  
JOHN DOE 1-5  
JOHN DOE COMPANIES 1-5**

**DEFENDANTS**

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**PLAINTIFFS MOTION TO RECUSE  
BASED ON 28 U.S.C. § 455(a) ( “§ 455(a)”). Section 455(a)**

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**COMES NOW**, Plaintiffs’ David Turner Properties LLC, and New England Construction LLC by and through his attorney of record and files this motion for the recusal of the Honorable Judge Henry T. Wingate in this matter based on 28 U.S.C. § 455(a) ( “§ 455(a)”). Section 455(a).

As such, Plaintiff offers the honorable court to wit:

1. Attorney Abby Robinson extern under The Honorable Court over [5] years ago, and has not been in communications with the Honorable Court in any legal capacity since the leaving of that post. As a result, Plaintiffs had no reason to believe that the court's ability to adjudicate impartially would be at issue. However, since the Court recused in one matter the Court should recuse in all matters involving Plaintiffs attorney.
2. The timing of Plaintiffs motion to recuse is appropriate because no issue arises until [3] days ago, on Friday, September 17, 2021 the Honorable Court recused *sua sponte* its another action whereby attorney Robinson is the attorney of record. There the court provided various reasons for the recusal which clearly shows that the Honorable Court's ability to be impartial might be questioned in this matter, although Plaintiffs counsel thought that the Court after seeing Plaintiffs counsel on his docket would have considered the matter and resolved that the court could indeed be fair in the adjudication, Plaintiffs counsel was shown to be mistaken. Plaintiffs attorney there and here admonishes that she did not file a motion to recuse in either action for the following reasons, (1) There has been no communications between the Honorable Court and this attorney, (2) The Honorable Court was motioned to recuse in another matter over a year ago and therefore, the Honorable Court might have had constructive knowledge that its judgment in matters involving this attorney should be considered by the Court. (3) Plaintiffs attorney moves with great caution seeking the

recusal of a District Judge each time cases assigned to this Honorable Court appears. In other words it might be looked as dilatory, or an abuse of the action, for this attorney to consistently seek the recusal of the Court as though the Court could not recuse *sua sponte*.

3. For clarity of the statement, in the past year Plaintiffs counsel filed a motion to recuse in another matter and whereby this Honorable Court did recuse, so why it took the Honorable Court as long to recuse September 17, 2021 is the prerogative of the courts not the attorney before the court. As such, and to be timely hereto, Plaintiffs motion to recuse in this matter is felicitous.
4. Therefore, Plaintiffs counsel is so elated that the Honorable Court recused from the matter on September 17, 2021 without Plaintiffs counsel seeking a motion to recuse, Plaintiffs believe that the above captioned matter before the Honorable Court should also be granted with this motion for recusal in all fairness in adjudication.
5. Moreover, out of the abundance of caution to fair playing and tradition, Plaintiffs respectfully ask that the Court recuse in this matter in the sole interest of fairness and judicial impartiality based on the reasoning of impartiality and any other just cause so stated and believed by the Honorable Court.

6. Last, it is important to note that Attorney Abby Robinson urges that she has not had any communications with the court and seeks this recusal in the interest of justice and fair playing out of respect for the honorable court and LOC. Uniform Rules of District Court especially since the court feels that it cannot be impartial in other cases that the court was assigned to that including attorney Abby Robinson esq. then it follows that the same fairness of this case should be considered in the same scope of fairness to all parties involved in this matter.
  
7. Furthermore, Plaintiffs seek recusal of the honorable Court based on **and** pursuant **28 U.S.C. § 455(a)** ( **“§ 455(a)”**). **Section 455(a)** states that a judge should recuse himself “in any proceeding in which his impartiality might reasonably be questioned.” “In order to determine whether a court's impartiality is reasonably in question, the objective inquiry is whether a well-informed, thoughtful and objective observer would question the court's impartiality.” *Trust Co. v. N.N.P.*, 104 F.3d 1478, 1491 (5th Cir.1997) (citing *United States v. Jordan*, 49 F.3d 152, 155–58 (5th Cir.1995)). Therefore, the Honorable Court recused himself from Plaintiffs other matters as of September 17, 2021 and the same consideration **should be granted to** the parties of this matter in the interest of justice and fair adjudication.

**CERTIFICATE OF SERVICE**

The undersigned acknowledges that she has filed the foregoing pleading on September 21, 2021 with the Clerk of the Court whom has sent the same to all parties in this litigation.

**/s/ Abby Robinson (MSB 105157)**

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